

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LAURICE MCCURDY,

Plaintiff,

vs.

JOHNSON, et al.,

Defendants.

Case No. 2:08-cv-01767-RLH-PAL

ORDER

This matter is before the court on the court's review of the docket. Plaintiff has not taken any action to serve his complaint or any other action since December 12, 2010 when he filed a notice of change of address (Dkt #27).

Plaintiff is proceeding in this action *pro se* and *in forma pauperis*. On July 19, 2009, the court entered an Order (Dkt. #12) screening Plaintiff's Complaint pursuant to 28 U.S.C. § 1915A. The court directed service on the Attorney General for the State of Nevada, and on July 30, 2009, the Attorney General filed a Notice of Non-Acceptance of Service (Dkt. #15), asserting that the Complaint does not contain allegations against the State of Nevada or any employee of the State of Nevada. Additionally, the Attorney General noted that Plaintiff alleged Defendant Johnson was an employee of the North Las Vegas Detention Center ("NLVDC"). *Id.* On November 10, 2009, the court entered an Order (Dkt. #18) directing the Clerk of Court to issue summons and outlining the procedures for Plaintiff to follow to ensure service.

On October 5, 2009, the summons issued to Defendant Johnson was returned unexecuted because, according to NLVDC, at the time service was attempted by the U. S. Marshals Service ("USMS"), Officer S. Johnson (P #1657) was not employed there. On October 15, 2009, Plaintiff filed a response asserting that NLVDC gave the USMS false information because Defendant Johnson was

1 employed at NLVDC at the time of the incident alleged in the Complaint and is “likely” still employed
2 there. Plaintiff is required to provide the USMS with the information to serve Defendant Johnson, and
3 NLVDC has told the USMS that Johnson does not work at the there. Plaintiff’s belief that Defendant
4 Johnson is likely still employed at NLVDC is insufficient for the court to conclude a representative of
5 the NLVDC gave the USMS false information.

6 To facilitate service of the Defendant the court will direct the Clerk to issue a subpoena *duces*
7 *tecum* to the custodian of records for NLVDC to provide the USMS with the last known address and
8 telephone number of Defendant Johnson and direct the USMS to serve the custodian of records for
9 NLVDC with the subpoena *duces tecum*. The USMS shall again attempt service on Defendant Johnson
10 after NLVDC provides this additional information.

11 Based upon the foregoing,

12 **IT IS ORDERED:**

- 13 1. The Clerk of Court shall issue a subpoena *duces tecum* to the Custodian of Records at
14 North Las Vegas Detention Center directing the custodian to provide the last known
15 address and telephone number of Officer S. Johnson (P #1657) to the USMS no later
16 than 14 days from service of the subpoena.
- 17 2. The Clerk of Court shall deliver the subpoena *duces tecum*, the summons, Complaint,
18 and a copy of this Order to the USMS.
- 19 3. The USMS shall serve the subpoena *duces tecum* as well as a copy of this Order on the
20 Custodian of Records for NLVDC.
- 21 4. To protect the privacy of Officer Johnson’s home address and phone number, the USMS
22 shall retain the information and file a redacted USM-285 or file it under seal.
- 23 5. After receiving information from NLVDC, the USMS shall use the information provided
24 by NLVDC to forthwith attempt to serve the summons and Complaint on Defendant S.
25 Johnson. The USMS shall provide Plaintiff with a Form USM-285 (without listing
26 Defendant Johnson’s address or phone number) indicating whether service was effected.
- 27 6. Plaintiff shall file the Form USM-285 within fourteen days after receiving it from the
28 USMS.

Dated this 16th day of September, 2011.

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